IN THE HIGH COURT OF JUDICATURE AT BILASPUR, C.G.

WRIT PETITION NO. 3174 /2005

(Petition under article 226/227 of the Constitution of India)

PETITIONER : Khinjan Kumar Kashyap, S/o Ratiram Kashyap, aged about 43 years, Upper Division teacher, at present working in Govt.High school Kolawal, Block Development, Bakawand, Distt. Bastar, Chhattisgrah.

S. No. 3294/05
Presented by Shri J. Khinjan Gupta
dated 13/7/05

VERSUS

RESPONDENTS :

1) State of Chhattisgarh, through the Secretary, Department of tribal Welfare, D.K.S. Bhawan, Raipur (C.G.)

2) Director, tribal Welfare Department, Raipur, C.G.

3) Asstt. Commissioner tribal Welfare Department, Jagdalpur, Distt. Bastar, C.G.

4) Collector Bastar at Jagdalpur, District Bastar, C.G.

5) Block Development Education Officer, Bakawand, Distt. Bastar, C.G.

6) District Coordinator, Tribal Welfare Department, Dhamtari, C.G.

शपथ आयुक्त
बिलासपुर (छ.ग.)
बिलासपुर तहसील कोर्ट

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13-7-05
ERK to A. G. BILASPUR

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT OF MANDAMUS/ CERTIORARI, ORDER/ORDERS, DIRECTION/DIRECTIONS ETC.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.3174 सन् 2005

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	3.8.2005 Shri Vishnu Koshta, counsel for the petitioner. Shri Arun Sao, Dy. Government Advocate for the State/respondents on advance copy. **I.A.No. 6192/2005** This an application for urgent hearing. The matter is taken up on board. This interim application stands disposed of. **W.P.No.3174/2005** Heard Shri Vishnu Koshta, learned counsel for the petitioner and Shri Arun Sao, Dy. Government Advocate for the State/respondents on advance copy. Learned counsel for the petitioner submits that the petitioner, who is working on the post of Upper Division Teacher has been transferred from Balak Ashram Karpawand, Block Bakawand, District Bastar to District Coordinator, Tribal Welfare Department, Dhamtari by the order dated 2.8.2003 (Annexure P- 1). He submits that even after passing of this order in the month of August 2003, the petitioner has not been relieved so far. Learned counsel for the petitioner makes this statement that the aforesaid order has not been cancelled or varied by the State Government and the same is still in force. He prays that this petition may be disposed of with a direction to the respondents to relieve the petitioner forthwith so that the	

XI-HC-22

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आदेश पत्रक

मामला क्रमांक ..... सन् 200

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

petitioner may join on his new place of posting in pursuance of the transfer order dated 2.8.2003.

On the other hand, learned Dy. Government Advocate for the State submits that he is not in a position to make any statement regarding existence of this order by now. He further submits that there is some circular of the State Government by which a person posted in a scheduled area is to be relieved after transfer only after joining of his reliever.

If the State has made a policy for transfer and it has also made a policy for relieving of a transferred person, then, no doubt that as far as possible, these policies are to be followed. The orders of transfers are issued by the State and while issuing an order of transfer, the State is also under obligation to see that the orders issued, are properly executed. If the orders of transfers are passed, but ultimately no arrangements are made for sending any other person in place of a transferred person for relieving him, if he is working in some scheduled area, then the State is at lapses and the order of transfer passed by the State itself frustrates. If necessary arrangements are not there for sending any reliever of a transferred person in a scheduled area, the orders of transfers should not be issued or if they are issued and they could not be complied within a reasonable period, then those orders should be cancelled.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित – 3–	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	If we examine the present case, it would appears that the order of transfer of the petitioner was issued as back as on 2.8.2003 and the State could not make any arrangement for his relieving till date i.e. after the lapse of about 2 years. This period of 2 years cannot be said to be a reasonable period. If the State could not arrange for the reliever of a person transferred on 2.8.2003 till date and has also not cancelled the order of transfer then the person transferred must be ordered to be relieved. I hereby direct that if the order of transfer of the petitioner has not been cancelled or varied, he shall be relieved from his present place of posting in pursuance of the order dated 2.8.2003 within a period 15 days from the date of production of certified copy of this order before the concerned authority. With the aforesaid observations, the petition stands finally disposed of. **Sd/-** **Sunil Kumar Sinha** **Judge**	

sunita

(पीछे देखिये)